

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CRIMINAL MISC.APPLICATION No. 3793 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

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ABDUL V THUTHIWALA & 2 - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR ASIM J PANDYA for Applicant(s) : 1 - 3.
 MS.MS PANCHAL APP for Respondent(s) : 1,
 RULE SERVED for Respondent(s) : 2,
 MR BN DOCTOR for Respondent(s) : 2,
 MR AR MAJMUDAR for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 09/04/2007

ORAL JUDGMENT

1. The petitioners, employees of Telephone Department, have invoked the provisions of Section 482 of the Code of Criminal Procedure,

1973 (for short the 'Code') for the prayer of quashing the complaint filed by respondent No.2 in the Court of learned J.M.F.C., Bharuch which was registered as Criminal Case No.255 of 1999 and wherein summons were ordered to be issued for presence of the petitioners on 03.07.1999. After admission and grant of interim relief, no affidavit-in-reply appears to have been filed and learned counsel for respondent No.2 appears to have remained consistently absent even as no one was present today also for the original complainant.

2. The original complaint is filed for the offences punishable under Section 500 read with Section 114 of the Indian Penal Code on the basis of apparent acrimony with the petitioners and the vague allegation that a writing was obtained from the complainant on the basis of which a police complaint was filed and reports of such complaint were publicized. The complaint is not only absolutely vague but the complainant has avoided

to disclose even the contents of the document which was alleged to have been obtained and the nature and the content of the complaint filed in the police station. It is also not disclosed as to how the fact of filing of the police complaint was publicized or made known to others. In view of the background of the case mentioned in the complaint itself, it clearly appears that the complaint was calculated to embarrass and harass the petitioners on account of some dispute with them. The original complainant has not cared to controvert the averments and allegations made in the petition that the complaint did not disclose offence under Section 500 of the Indian Penal Code and that the complaint was filed with *mala fide* intention with a view to harass the petitioners.

3. In view of the facts and circumstances, it appears that the criminal proceedings have been initiated against the petitioners by way of an abuse of the process of Court and with an

ulterior motive. Therefore, the petition is allowed with the direction that Criminal Case No.255 of 1999 pending in the Court of learned J.M.F.C., Bharuch (Vagra Camp) and the orders made thereunder are hereby quashed. Rule is made absolute with no order as to costs.

(D.H.WAGHELA, J.)

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